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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/852,630

05/11/2001

Andrew Strawn

042933/300252

5351

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7590

07/17/2007

ALSTON & BIRD LLP

BANK OF AMERICA PLAZA

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EXAMINER

TORRES, MARCOS L

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

07/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/852,630

Applicant(s)

STRAWN ET AL.

Examiner

Marcos L. Torres

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-12 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-12 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6-19-07.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

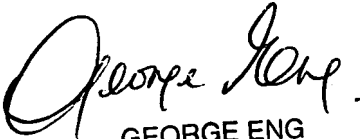
1. In view of the Appeal Brief filed on 1-31-07, PROSECUTION IS HEREBY REOPENED. A new rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-6, 8-9, 12 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Fuhrmann US006347218B1 in view of Norman 6073027.

As to claims 1, 12 and 49, Fuhrmann discloses an electronic radiotelephone (see col. 1, lines 9-10) comprising a first and second housing for housing electronic components of the radiotelephone (see fig 1, items 1, 14) and a biasing mechanism to aid the user to release the second housing from the first housing; the first housing having an element with an operating surface and a formation which co-operates with a complementary formation on the second housing for user to releasable coupling of the first housing to the second housing (see fig. 1, items 12, 13 and 17); the element being movable between a first and a second position such that when the element is in the first position the formation and complementary formation co-operate to allow the first housing to be coupled to the second housing and when in the second position to allow the second housing to be removed from the first housing by the user (see fig 1, 2 ); comprises a biased releasing mechanism being arranged to resiliently bias the element into the first position to allow a user to actuate the element, via the operating surface, against the compression bias into the second position to release the co-operation of the formation and complementary formation thereby allowing the housing to be removed from one another (see fig. 1, 2), thereby allowing the second housing to be removed from the first housing by the user without interference from the element (see col. 3, line 15 - col. 4, line 22). Fuhrman does not specifically disclose wherein the biasing mechanism comprises a compression biased releasing mechanism and wherein the compression biased urging mechanism is arranged to be resilient compression to store energy when the formation and complementary formation are coupled and to automatically urge the first and second housing away from each other when the

coupling of the formation and the complementary formation are released by releasing energy stored in the compression biased urging mechanism. In an analogous art, Norman discloses wherein the biasing mechanism comprises a compression biased releasing mechanism being arranged to resiliently compression bias the element into the first position to allow a user to actuate the element, via the operating surface, against the compression bias into the second position to release the co-operation of the formation and complementary formation thereby allowing the housing to be removed from one another, and wherein the compression biased urging mechanism is arranged to be resilient compression to store energy when the formation and complementary formation are coupled and to automatically urge the first and second housing away from each other when the coupling of the formation and the complementary formation are released by releasing energy stored in the compression biased urging mechanism (see col. 5, lines 17-49), thereby helping to remove a case. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of invention to combine these teachings for an easier removal of the case.

As to claim 2, Fuhrmann discloses a radiotelephone wherein the first housing is presented away from a user during operation of the radiotelephone and the second housing is presented towards a user during operation of the radiotelephone (see fig. 1).

As to claims 3 and 6, Fuhrmann discloses a radiotelephone further comprising retaining means for retaining the electronic components of the radiotelephone to the first and second housing (see col. 3 lines 6-14).

As to claims 4, Fuhrmann discloses a radiotelephone wherein the second housing has a lip for engaging with the element to allow the first housing to be coupled to the second housing (see fig. 3, 4).

As to claim 5, Norman discloses a radiotelephone wherein the element is a flexible hinge (see col. 5, lines 17-49).

As to claims 8-9, Fuhrmann discloses a radiotelephone wherein comprising a spring associated with the first and second housing and arranged to be compressed when the first and second housings are coupled (see col. 3, lines 20-27).

6. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuhrmann in view of Norman and further in view of Prabhakaran 6889139.

As to claims 10-11, Fuhrmann disclose everything claimed as explained above except for a radiotelephone wherein the means for urging comprises a rubber seal associated with the first and second housing and arranged to be compressed when the first and second housings are coupled. In an analogous art, Prabhakaran discloses a mobile device wherein the means for urging comprises a rubber seal associated with the first and second housing and arranged to be compressed when the first and second housings are coupled (see col. 7, lines 45-49). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add these teachings to the Fuhrmann modified system for the simple purpose of protecting the internal parts of the device.

***Conclusion***

7. Examiner's note: Examiner has cited particular sections in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any response to this Office Action should be mailed to:

U.S. Patent and Trademark Office  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to:

571-273-8300

for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

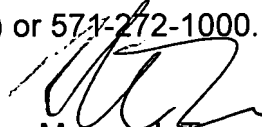
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Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L. Torres whose telephone number is 571-272-7926. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Marcos L. Torres  
Examiner  
Art Unit 2617

mlt